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ABSTRACT

This journal article examines how school board policies are used to control the controversies that often surround curriculum challenges. Specific key provisions of model policies and actual policies from California are analyzed to suggest ideal policy provisions. In a longitudinal study, over 42 percent of the 1,000-plus school districts in California responded to a 1990 survey, and more than 37 percent responded in 1991. The districts also provided a total of 227 relevant policies. In 1991, 77 percent of the districts reported having a policy for dealing with curriculum challenges. Over 30 percent of the policies had not been reviewed or revised within the past 5 years. Model policies should contain the following provisions: (1) require that challenges be made in writing using a specified form; (2) begin the process at the school site; (3) conduct a study of the challenged material by a review committee; (4) allow materials to be used during the challenge process; (5) delineate a clear appeals process; (6) standards used by the committee to review the challenged material must be specified in the policy; (7) establish a standard stating how ofter a challenged item will be reviewed within a specific period; (8) establish guidelines for selection of review committee members; and (9) allow alternative asignments to be given to the challenger's child. Following a brief review of court cases, tips are provided for proper policy content and management. A conclusion is that when no policy exits, or when it is not used, there is no assurance that due process procedures will be followed. Districts have to strike a delicate balance between the challenger's right to petition their government and the public interest in providing a well-rounded education; between parents' rights to direct their children's education upbringing and the rights of other parents and children to be exposed to a wide range of ideas and information; and between the religious sensibilities of the challengers and the professional judgments of educators. This requires the use of well-thought-out procedures that are expressed in clear board policies. Contains 29 references. (LMI)

School Board Policy as a Control Mechanism in Curriculum Challenges

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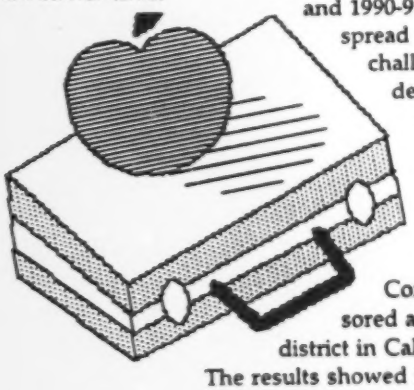

When parents or other members of a community find school curricular materials, textbooks, or library books objectionable, they may lodge a formal protest with an official of the school district. Most school districts have written policies for responding to these protests, which are called challenges. People for the American Way (1991-92) report that the number of challenges are increasing, especially in California. This paper examines how school board policies are used to control the controversies that often surround curriculum challenges. Specific key provisions of model policies and actual policies from California are analyzed to suggest ideal policy provisions.

In California curriculum challenges and how districts manage them may be particularly significant for the following reasons:

- California adopts textbooks statewide, a practice that has a great impact on the marketing of textbooks nationally because of the large number of textbooks purchased with state funds.
- Textbooks can be challenged both at the state level at the time of adoption and at the local level after the textbooks have been purchased by school districts. The *Impressions* reading series has been challenged in at least 33 school districts in California since fall of 1989. As a result the books have been removed in two districts and are used only to a limited extent in 10 other districts (Adler, 1991; Adler & Tellez, 1992).
- Over half the California districts responding to a 1991 survey reported challenges. Further, 374 challenges were reported by 379 districts for the two school years 1989-90 and 1990-91 (Adler, 1991). The widespread nature of the curriculum challenges means that a good deal of staff time is spent in responding to challenges, which can become very contentious and lead to major legal actions.

Because of these concerns the Educational Congress of California sponsored a survey of every school district in California in 1990 and 1991. The results showed that 77% of the school districts reporting had written policies outlining the procedures to be followed when curriculum was challenged (Adler, 1991). The study was based on an analysis of documentary and survey data provided by approximately half of the more than 1,000 districts in California. This paper uses parts of the survey data, appropriate documents, and relevant legal cases to show the critical role that written board policies play in channeling and controlling the controversies that often surround curriculum challenges.

The Philosophical Underpinnings of Curriculum Challenge Policies

Social norms define the relationships between groups and individuals in a society. School administrators and board members adhere to norms that require fair and just treatment in dealing with members of the public they serve. However, these social norms can conflict with norms against censorship in dealing with curriculum challenges. School districts have resolved this conflict by following the principles of procedural due process.

Social Norms

Decisions by school districts on the merits of curriculum challenges must be seen from a perspective of what is "just." American notions of fairness are based on equality in the assignment of rights and duties. Thus, each person who challenges something expects to be treated equally or fairly. The community, in turn, expects that government bodies, such as school boards, will provide equal treatment and consistency to protect citizens from unfair treatment. According to Pennock and Chapman (1977),

> due process of law first gained currency in connection with the assertion of rights and of checks on government, and indeed is phrased for that purpose, its use as a limitation on government in all its branches came naturally in this country. (p. xvii)

Similarly, norms of fairness were described by Blau (1964) who stated:

> Since **fairness** is a social norm that prescribes just treatment as a moral principle, third parties in the community will disapprove of a person who deals unfairly with others under his [or her] power, whereas the one whose dealings are just and fair earns general social approval. (p. 157)

"Fairness"

Case-study research provides vivid examples of the focus on fairness in dealing with current curriculum challenges. For example, a school board member described how the actions of his district would be viewed when dealing with a very contentious challenge: "'We

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had a bias, but we treated them fairly.' He said that the district's actions would be viewed favorably because they did not exclude people, but rather gave them a chance to speak and were willing to look at the issues raised" (Adler, 1988, p. 63). A superintendent from another California district reported that "he wanted the challengers to feel that they were getting a 'fair shake'" (p. 77). Finally, a reporter in another community touched on the fairness issue when reporting that a district "bent over backward to give the challengers a chance to present their views"(Adler, 1988, p. 90).

One aspect of the norm of fairness is our societal prohibition against criticizing religious beliefs.

> The prohibition on criticizing religious belief, no matter how crude its form, may be the last remaining taboo in American life. In recent years something of the same protection from abuse that surrounds ethnic and racial minorities—in public contexts at any rate—has been extended to fundamentalists. (Beatty, 1988, p. 13)

If public school administrators and board members do not believe in censoring curriculum once it is in use, how can they treat challengers fairly?

Over 41%, or the most common cause, of the curriculum challenges in California were the result of religious conflict or concerns about satanic/witchcraft issues (Adler, 1991). Consequently, both of these norms—fairness and prohibition against criticizing religious belief—are significant for school executives as they respond to challenges.

Anticensorship

In addition to norms of "fairness," school boards and staff members also adhere to "anticensorship" norms as illustrated in the following examples. "One board member said the staff was '100 percent against censorship'" (Adler, 1990b, p. 170). Similarly, an attorney who worked for a district that was subject to a prolonged challenge reported that "challengers had a right to question the material and to a fair hearing, but he felt censorship was wrong" (Adler, 1988, p. 112). During a public discussion of a challenge at a school board meeting a board member standing for re-election held up a butane lighter and said, "This flame either represents the flame to burn books or the light of learning. I prefer the latter" (p. 87).

Clearly, there is a tension between these two norms: (a) fairness, which implies an open hearing and a chance to make your case, and (b) anticensorship, which implies that challenges should not succeed. If public school administrators and board members do not believe in censoring curriculum once it is in use, how can they treat challengers fairly? In general, districts attempt to solve this problem by following procedural due process "to the letter" as it is outlined in their board policies and by showing a willingness to "listen" to the challengers.

Due Process

Justice Frankfurter described the relationship between norms of fairness and due process:

> Representing a profound attitude of fairness...particularly between the individual and government, "due process" is compounded of history, reason, the past course of decisions and stout confidence in the strength of the democratic faith which we profess. (Gifis, 1975, p. 66)

McCarthy (1987) emphasized that due process applies to all government agencies including school boards and provides protections against arbitrary acts of agencies (substantive due process) and "procedural protections when the government threatens an individual's life, liberty, or property interests" (p. 380). She also described the link between "fairness" and due process: "Due process is a basic tenet of the United States system of justice—the foundation of fundamental fairness" (p. 515). Finally, legal scholars have pointed out that due process requires that citizens have a right to air their views on matters that affect them. While due process issues are usually raised in employment cases, such as terminations, in special education fair hearings, and in student discipline cases, the philosophical and practical implications are also important in the case of curriculum challenges, which involve both social and legal expectations of fairness and due process.

> The elements of due process most concerned with reconsideration of materials would be outlining of clear procedures, and in the opportunity for an open forum...It should be clear that the policy and procedure apply to all formal requests for reconsideration—including those from school personnel, school board members, students, and parents. (Callison & Kittleson, 1985, p. 7)

Data Source and Methodology

Data for this research were gathered in 1990 and 1991 as part of a longitudinal research project that uses a survey instrument to study curriculum challenges in California. More than 42% of the 1,000-plus districts in California

responded to the 1990 survey, and more than 37% responded in 1991. The surveys collected some data that are beyond the scope of this paper. Of interest to the current discussion are the following: (a) whether districts had policies for dealing with curriculum challenges; (b) if so, whether they used them; (c) when the existing policies were last revised, and (d) whether the challenger had to make the challenge in writing and whether the district responded in writing.

The districts were also asked to provide copies of their policies, board minutes, and newspaper articles with returning their survey responses. The data were analyzed using a specially designed nested computer file and the SPSS statistical program. The board policies were analyzed using categories taken from model policies provided by the California School Boards Association, The American Library Association, and recommendations from academic sources such as McCarthy (1989). Data on the congruence of each district's policy to the model policies were analyzed using a computer spreadsheet program.

Some districts that have policies do not use them when they face a challenge.

Do Districts Have Policies?

As part of the survey, 227 policies were collected from districts in California in 1990 and 1991. The survey form asked the person responding, who was usually the superintendent or assistant superintendent, to attach a copy of the district's board policy for dealing with challenges.

Districts covering grades kindergarten through 12th grade constituted 44% of the districts that submitted usable policies; in comparison, in the state as a whole, these districts make up about 27% of all school districts. Thus, K-12 or unified districts represented a larger proportion of the sample than they do in the actual statewide statistics. Further, smaller districts were underrepresented in this study when compared to statewide statistics (see Table 1). However the general distribution of districts is similar to the statewide distribution.

Table 1. Size of Districts Submitting Policies

Size of Districts	Distribution for Those Submitting Policies	Statewide Distribution 1988
50,000 +	1%	1%
30,000 - 49,999	1%	1%
10,000 - 29,999	22%	9%
5,000 - 9,999	19%	10%
1,000 - 4,999	38%	30%
500 - 999	7%	12%
100 - 499	8%	26%
Less than 100	1%	11%

Source. PACE. (1988). *Conditions of education.* Berkeley, CA: Author.

Do Districts That Have Policies Use Them?

School executives should be aware that two areas seem problematic when reviewing these data:

- Some districts report that they do not have policies for dealing with challenges.
- Some districts that have policies do not use them when they face a challenge.

National data collected in 1980 showed that 49% of the districts surveyed had policies for reconsideration of challenged books or materials (Association of American Publishers, American Library Association, & Association for Supervision and Curriculum Development, 1981, p. 6). According to similar data, in 1991, 77% of the California districts reported having a policy for dealing with curriculum challenges (Adler, 1991).

Of the districts that reported not having policies in 1991, 90% answered that they did not intend to develop such a policy. Responding to the question, "Has your district used the challenge policy?," 6.75% of the districts with

policies answered, "No, we have had challenges but did not use policy." An example was provided in the documentary data from one district where there was a challenge to the use of the children's book, *The Wish Giver*, by Bill Brittain (Harper Row, 1983), a Newbery Honor Book.

From the parent complaint:

> During recess a fifth grader mentioned (that) her teacher was reading *The Wish Giver*. She read the word "devil" several times. [The child] covered her ears [so as] not to hear further. With this, I felt it [was] my duty to have someone investigate the book to see if it benefits the children. It would be nice if the books mentioned God instead. (Adler, 1990a, p. 14)

From the district's response:

> I have been checking on this book, since it was not a part of our regular curriculum or core literature list. As far as I can ascertain, *The Wish Giver* is not carried in any of our libraries and is not a part of our curriculum.... The teacher...who had been reading the book, has discontinued presenting it to her class at your request.... We will continue to monitor our literature and language arts materials for offensive stories.... (Adler, 1990a, p. 14)

When existing policies are not used, challengers and others may call the district's decision into question because the district did not use its own policy.

> Once a process to evaluate complaints pertaining to the instructional program is in place, school boards should follow it carefully, as courts will show little sympathy when a school board ignores its own established procedures. (McCarthy, 1987, p. 85)

For example, in the case *Pico v. Board of Education, Island Trees Union Free School* (638 F.2d 404 [1980]), the Supreme Court took note of the fact that the school district did not follow its own policy:

> The board's complete disregard for the policy for challenged materials caused the Court to be suspicious of their motivation for the removal of the materials, giving further support to the students' claim to First Amendment rights.... (Callison & Kittleson, 1985, p. 8)

When Were Policies Adopted or Revised?

School executives should note that the most important finding here is that many district policies (over 30%) had not been reviewed, revised, or readopted within the last five years.

Commentators recommend that before a challenge occurs districts have well-written policies in place. This advice is particularly important in view of the growing concern about challenges. Also, districts that have policies would be well advised to review or revise such policies. Data from a statewide survey done in 1991 (Adler, 1991, p. 22) indicated that almost half of the districts had reviewed or revised their policies in the last two years.

The policies reviewed in this study showed a somewhat different pattern. In comparison, the last date of revision or adoption printed on the policies showed a smaller number of policies being adopted or revised in the last two years (see Table 2). It may be that some districts had reviewed their policies, but determined that no revisions were necessary, accounting for the difference between the 1991 survey data and the data reported in this study.

Table 2. When Policies and/or Administrative Regulations Were Adopted or Last Revised

Year Shown on Policies Provided by Districts	Percentage of Policies Reviewed
1989 - 1991 (within last two years)	31%
1986 - 1988 (within last five years)	22%
Earlier	47%

Who Serves on Review Committees?

School executives should utilize the professional skills of librarians. Surprisingly, librarians are represented on the committees only slightly more often than community members, even though their professional training usually prepares them to deal with controversial selection issues.

Due process concepts suggest that "membership of the [review] committee should reflect a balance between the members of the school's community and professional staff members of the school system" (Callison & Kittleson, 1985, p. 6). However, the review of the policies in this study indicated that community members and parents are not likely to serve on most review committees (see Table 3).

Table 3. Members of the Review Committee as Designated in Board Policies

	Percent of Policies That Specify This Category
District office staff	65%
Principals	76%
Teachers	80%
Librarians	29%
Community Members	20%
Parents	17%

Key Provisions of Model Policies

School executives should note that many district policies and most model policies contain the following key provisions:

1. Challenges must be made in writing using a specified form.
2. Challengers must begin the process by discussing their concern with the principal of the school where the challenged material is used.
3. A review committee (which can be constituted either at the building or district level) conducts a study of the challenged material.
4. Challenged materials remain in use during the review period.
5. The child of a challenger may be given an alternative assignment during the process.
6. The steps of the review process are outlined in the policy and provide for an appeal process.
7. Standards used by the committee to review the challenged material must be specified in the policy.
8. A standard should be established that states how often a challenged item or service will be reviewed within a specific period.
9. Guidelines must be established for selection of review committee members.

A number of writers and organizations have made recommendations on the content of policies and procedures for handling complaints about curriculum materials. For example, the People for the American Way and other advocacy groups have expressed their views. Professional organizations such as The American Library Association, National Council of Teachers of English, and Phi Delta Kappa have also been active in this area. In California, the Association of California School Administrators adopted a Freedom to Teach/Freedom to Learn Resolution in 1990 urging districts to stand firm on selection decisions.

In addition, the California School Boards Association offers a policy service, which provides model policies on most issues that face school districts, including curriculum challenges. These policies are widely used throughout the state. In fact, some policies collected from districts during this research have "CSBA Policy Service" printed on them. To reinforce its stand on curriculum challenges the Winter 1991 issue of the *California School Boards Journal* noted that:

> Districts should remove or limit the use of curriculum materials only after having followed established due process procedures....Accordingly, CSBA has just reissued its newly revised sample Board Policy and Administrative Regulation (Complaints Concerning Instructional Materials). (Wolfe, 1991, p. 66)

These elements are not unique to California. For example, Weil (1987) reported on a district policy from Evanston, Illinois, which contained provisions that "no parent has the right to limit reading, viewing, or listening materials for students other than his or her own children" (p. 449). Once the board makes a decision on a challenge, the Evanston policy states that there will be no further review (no new challenge to that material) for three years. Challengers must answer the following questions:

1. Do you represent an organization or other group?
2. To what in the material do you object?
3. What do you feel might be the result of student's becoming involved with this material?
4. Is there anything good about this material?
5. What do you believe is the theme of this material?
6. In its place, what other print or nonprint material would you recommend that would convey as valuable a picture and perspective of the subject

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> treated and be of equal value to the instructional program? (Weil, 1987, p. 449)

What Can School Executives Learn from the California Data?

Challenges Should Be Made in Writing

The two provisions that appear in almost every policy are the requirement that the challenge be made in writing (97%) and that a specific form be used (93%) (see Table 4). In 1990, school districts requested that challengers put their concerns in writing in 58.7% of the cases reported; in 1991, 62.4% made a similar request. Requiring written challenges ensures that the specific item(s) challenged and the reasons for the challenge are clearly defined. In a similar vein, challengers received a written response from the district in 51.3% of the cases reported in 1991 (Adler, 1991).

Commentators on model policies unanimously support use of the key provision that challenged materials remain in use during the review process.

Begin the Process at the School Site

Fewer policies require that challengers begin the process by discussing their concern with the principal of the school where the challenged material is used (76%). Further, districts seem more likely to set up review committees at the district level (75%) rather than at the school site (47%) (see Table 4).

Use of Material During the Challenge Process

Commentators on model policies unanimously support use of the key provision that challenged materials remain in use during the review process.

> In our public school system, parents and other interested community members have the right to question what is provided as educational material with the understanding that the material is considered to be of merit until it has been proven otherwise....The burden of proof is on the accuser. (Callison & Kittleson, 1985, p. 5)

Over 30% of the policies in this study contained no such provision. A 1981 study conducted by the Association of American Publisher, the American Library Association, and the Association for Supervision and Curriculum Development found that in 50% of the reported cases "challenged material [was] altered, restricted, or removed prior to a formal review" (Kamhi, 1981, p. 37). The summary report pointed out the difficulty presented when this key provision is not used:

> . . . most disturbing, in half of the recent challenges specified, the challenged material was subject to some degree of restriction or censorship prior to formal review—a finding that suggests challenged books and other learning materials are often treated as "guilty" until, or unless, proven "innocent." (Association of American Publishers, American Library Association, & Association for Supervision and Curriculum Development, 1981, p. 10)

Appeal Process

Just over half of the policies studied contained an appeal process, specified guidelines for selection of committee members, and outlined the standards to be used by the committee to review the challenged material. By providing this type of information, the policy not only gives the district's staff guidance on how to process the challenges, it also ensures at the outset of the process that the challengers will know how the challenge will be conducted.

Alternative Assignments

Forty-six percent of the policies included a provision that an alternate assignment can be given to the challenger's child (usually during the challenge process). This provision is designed to prevent the parental demand that the district rush to judgment in order to protect their child from the "damaging" material. On a practical level, the provision is easiest to implement when the challenge concerns one story out of a textbook or one library book for a single child. However, when an entire textbook series and more than one family is involved, implementation of this provision can be problematic, as the courts recognized in a Tennessee textbook case. In 1986, fundamentalist parents won a case at the district court level, requiring the Hawkins County Public School District to allow pupils to learn reading at home if their parents believed use of a reading series published by Holt, Rinehart & Winston violated their children's freedom of religion. Books in the series allegedly promoted evolution, feminism, supernaturalism, and world government. An appellate court ruling reversing the decision by the district court was appealed to the Supreme Court which declined to review the decision (*Mozert v. Hawkins County Board of Education*, Case No. 87-1100). Thus, the school district was allowed to require that all students use the same reading textbook series.

How Often Challenged Material Will Be Reviewed

Some districts have experienced multiple challenges to the same material. If all the challenges occur at the same time, they can be joined in one review process. However, in many instances, the challenges occur months or years apart. Thus, districts need to determine

Table 4. Key Provisions Used in California Board Policies

1.	Challenges must be made in writing.	97%
2.	Use of a form is specified.	93%
3.	Challengers must begin the process by discussing their concern with the principal of the school where the material is used.	76%
4.	A review committee can be appointed at the school site.	47%
5.	A review committee can be appointed at the district level.	75%
6.	Challenged material remains in use during review process.	69%
7.	There is an appeal process provided.	54%
8.	Standards used by the committee to review the challenged material are specified.	57%
9.	Standard establishing how often a challenged material will be reviewed within a specific time period.	4%
10.	Guidelines for selection of review committee members.	51%
11.	Alternate assignment may be given to challenger's child.	46%

in their policies how often they will review the use of particular material. One policy identified in this study specified that material will not be reviewed more than once. Other districts specify a time period, such as three years, before material will be reconsidered. Only 4% of the policies in this study contained such provisions.

One might expect the growing number of challenges to cause districts to include more of the key provisions in their policies. However, this policy review indicated that most policies contained between 40% and 60% of the key provisions, no matter what year they were adopted or revised.

Using Policies to Manage Controversy

A number of the provisions of model and actual policies used by school districts include provisions that, while they enunciate a due process procedure, serve as mechanisms to control the level of controversy that typically surrounds challenges. Organizational theorists (see Thompson, 1967; Scott, 1981) call this "buffering the technical core of an organization," that is, protecting it from outside pressures. Requiring that the challenge be put in writing is a reasonable request that ensures the challenger's concerns are clearly expressed. At the same time, however, the requirement does serve as a buffer because some parents do not want to invest the time necessary to fill out the required form or make their concerns part of the public record. Policies that outline a series of reviews at higher levels of the organization are using a common technique in establishing fair administrative procedures, but the time necessary to proceed through the various review levels may also discourage a challenger. Fiske (1959) called this process "discouragement by committee" (p. 77).

The provision for establishing review committees ensures that the challenger will get a hearing—a key ingredient in due process. But the district can control the level of controversy by the way it appoints the members of the review committee. For example, most districts in this study did not have parents or other noneducators on the committees. Challengers have argued that committees composed solely of district employees are inherently unfair.

Documentary data provided by a district in California provides an example of a challenger who questioned the issue of due process and fair play with regard to the review process used by one district:

> We feel the review committee could not come to an objective and unbiased decision concerning the book for the following reasons:
> 1. The review committee are all peers.
> 2. The committee are all members of the same union in which the teacher implementing the book is president.
> 3. The principal signing the book order was on the committee.
> 4. The teacher ordering the book and teaching the books was on the committee. (Adler, 1991, p. 22)

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Even if the review committee has noneducators, these members are usually selected by the district's administrative staff. Presumably, persons who may be critical of the district are not sought as potential review committee members. Organizational theorists such as Pfeffer (1981) have pointed to the political implications of the selection of committee members and the use of committees to coopt opponents. However, districts report that, for the most part, they are successful in providing fair hearings. Administrators reported in 1991 that they felt 84% of the challengers would agree that either they were satisfied with the outcome or got a fair hearing even though they may not have liked the outcome (Adler, 1991.)

Districts should develop and adopt policies during times of political quiescence so that they will be in place when challenges cause political storms to erupt.

Existence of challenge policies, while ensuring due process, also constrains the controversies that typically surround challenges by defining the channel through which these must flow. Districts should develop and adopt policies during times of political quiescence so that they will be in place when challenges cause political storms to erupt.

Court Cases

In spite of precautions, sometimes challenges are not controlled and channeled by board policies. These very contentious challenges spill over into political disputes and court cases. For example, in Woodland, California, Doug Brown, who is represented by the American Family Association Law Center of Tupelo, Mississippi, filed a 1991 suit alleging that the *Impressions* reading series endorses the religion of Wicca (witchcraft), thereby violating the establishment of religion clause of the First Amendment (*Brown v. Woodland Unified School District*, US District Court C910032). The Woodland Joint Unified School District followed their challenge policy using a review committee that met for two months.

> In accordance with School District Policy, Superintendent Watt selected a committee consisting of a school administrator, two teachers who did not use *Impressions* in their classrooms, the librarian of the Woodland Public Library, a parent, and a fundamentalist Christian minister from the community. After a comprehensive review of the plaintiffs' complaints, the committee unanimously concluded that the complaints were unwarranted. (*Brown v. Woodland Joint Unified School District*, US District Court, April 2, 1992, p. 32)

It is interesting to note that in this district, a parent and a fundamentalist Christian minister from the community served on the review committee. This is an uncommon practice according to this study of policies; however, the committee still upheld use of the challenged textbooks.

In upholding the school district's use of the *Impressions* series, the U.S. District Court judge ruled that:

> There is at best, only an indirect and incidental benefit to religion in this case. The central aim of *Impressions* is to grab and retain children's interest in literature and teach language arts. It invokes mystery and imagination associated with folklore to promote learning. Religions also invoke mystery and imagination for their own special purposes. However, the convergence of religious themes with outcroppings of mystery and imagination contained in *Impressions* does not afford a constitutional basis for circumscribing the teaching tools available to educators. (*Brown v. Woodland Joint Unified School District*, US District Court, April 2, 1992, p. 37)

The district's associate superintendent for curriculum and instruction commented that the parents could "enroll their children in one of the three elementary schools in the district that do not use *Impressions* or...'opt out' of objectionable exercises" (Walsh, 1991, p. B1). The district has already spent between $85,000 and $90,000 to defend this case, while People for the American Way has spent several hundred thousand dollars on behalf of intervening parents who support the series (Warchol, 1991, p. A9). An appeal of this decision was filed in April of 1992 in the 9th U.S. Circuit Court of Appeals.

In nearby Dixon, California, three parents who did not have children attending the public schools claimed that the district violated the state's open meeting laws when they adopted and reviewed the *Impressions* series. All the charges were dismissed before the trial except one that challenged the attendance of three board members at a management group meeting that has not been posted as a public meeting. The board members did not participate in the meeting, and the judge who ruled on that remaining charge stated:

> the district employed commendable efforts to insure involvement of parents and community members in the selection of the elementary school reading series... and was justifiably concerned with the challenge to the *Impressions* series... and adopted an extensive review that afforded petitioners ample opportunity to present their concerns. (Trotter, 1991, p. A2)

The judge also ruled that the respondent district was to recover their costs as a result of the lawsuit. School attorneys have estimated that it costs a school district $20,000 to $25,000 to defend against a challenge that is taken to court if the case ends at the district court level. If appeals are filed, however, the costs to districts can become even greater. If parents and activists must face the prospect of having to pay a district's cost if they lose their case, it may limit the number of lawsuits filed.

In a case involving another California district, Yucaipa Joint Unified, the court was asked to rule on the legality of a district charging for xerox copies of district documents requested by parents who challenged the *Impressions* reading series. The court held that the district could charge a reasonable fee.

Tips for Proper Policy Content and Management

- Districts in all kinds of communities experience challenges. School executives must be proactive by having up-to-date policies that ensure fair treatment and due process for all concerned.
- Use the key provisions found in model policies.
- Legal due process requires that once a policy is established it must be used consistently.
- Policies should be reviewed on a regular basis to ensure that the provisions conform to the standards set by the courts.
- Librarians should serve on review committees because their professional training usually prepares them to deal with controversial selection issues.
- Appointing community members to review committees avoids the criticism that the district is attempting to shut out parents and the community.
- Exercise caution in making promises to parents that their children will be excused from using objectionable books or materials. There may be more such requests than can be accommodated without disrupting a school.
- State in your policy how often a particular item will be reviewed during a specified time period. This avoids continuous review of material that may become controversial.
- When a challenge occurs, contact other school executives and professional associations. Other districts may be experiencing similar challenges.

Conclusion

In deciding issues relating to procedural due process, courts examine school district policies and ask whether the district followed the procedures outlined in the board policies. When no policy exists, or when it is not used, there is obviously no assurance that due process procedures will be followed. This leaves open the door to a variety of poor outcomes including: (a) challengers may not get a "fair hearing"; (b) curriculum materials may be removed without a review of their merits; (c) staff members who selected the materials may be disillusioned if their professional judgment is summarily overruled; and (d) the community may come to believe that the way people get what they want is to "yell the loudest."

School executives report that their impressions of challenges in other districts are that most challenges are either somewhat contentious and disruptive (46%) or very disruptive with a community-wide controversy (40%) (Adler, 1991). Curriculum challenges are issues that school executives realize have the potential for developing controversy that can substantially impact their schools. Thus, it is important that school executives be aware of the legal implications required by the principles of due process which form the bases of most school board challenge policies.

Districts have to strike a delicate balance between the challengers' right to petition their government and the public interest in providing a well-rounded education; between parents' rights to direct their children's educational upbringing and the rights of other parents and children to be exposed to a wide range of ideas and information; and between the religious sensibilities of the challengers and the professional judgments of educators. This Solomon-like task requires the use of well thought-out procedures that are expressed in clear board policies.

References

Adler, L. (1988). *Church-state controversies in public education as a test of isomorphic theories of political action.* Unpublished doctoral dissertation, Claremont Graduate School.

Adler, L. (1990a). *Curriculum challenges in California.* Sacramento, CA: The Educational Congress of California.

Adler, L. (1990b). Shelter from the storm: Institutionalized response to censorship. In P. Dreyer & M. Poplin (Eds.), *Claremont Reading Conference, 54th Yearbook* (pp. 161-179). Claremont, CA: Claremont Graduate School.

Adler, L. (1991). *Curriculum challenges in California.* Sacramento, CA: The Educational Congress of California.

Adler, L., & Tellez, K. (1992, June). Curriculum challenges from the religious right: The Impressions reading series. *Urban Education,* 27(2), 152-173.

Association of American Publishers, American Library Association, & Association for Supervision and Curriculum Development. (1981). *Limiting what students shall read.* Washington, DC: Authors.

Beatty, J. (1988, January 27). Robertson runs wild behind our deference to religion. *Los Angeles Times,* II, p. 13r.

Blau, P. M. (1964). *Exchange and power in social life.* New York: John Wiley & Sons.

Brown v. Woodland Joint Unified School District, US District Court C910032 (1992, April).

Callison, D., & Kittleson, C. (1985). Due process principles applied to the development of reconsideration policies. *Collection Building,* 6(4), 3-9.

Fiske, M. (1959). *Book selection and censorship.* Berkeley: University of California Press.

Gifis, S. (1975). *Law dictionary.* Woodbury, NY: Barron's Educational Series, Inc.

Kamhi, M. (1981). *Report on a nationwide survey sponsored by the Association of American Publishers, the American Library Association, and the Association for Supervision and Curriculum Development.* New York: Scherman Foundation. (ERIC Document Reproduction Service No. ED 210 772)

McCarthy v. Fletcher, 207 Cal. App. 3d 130 (1989).

McCarthy, M. (1987). *Public school law.* Newton, MA: Allyn and Bacon, Inc.

McCarthy, M. (1989). Curriculum censorship: Values in conflict. *Educational Horizons,* 67(1&2), 26-34.

Mozert v. Hawkins County Board of Education, 827 F.2d 1058 (6th Cir. 1987).

Pennock, R., & Chapman, J. (1977). *Due process: Nomos XVIII.* New York: New York University Press.

People for the American Way. (1991-92). *Attacks on freedom to learn.* Washington, DC: Author.

Pfeffer, J. (1981). *Power in organizations.* Boston, MA: Random House.

Pico v. Board of Education, Island Trees Union Free School, 638 F.2d 404 (1980).

Scott, W. R. (1881). *Organizations: Rational, natural, and open systems.* Englewood Cliffs, NJ: Prentice-Hall, Inc.

Thompson, J. D. (1967). *Organizations in action.* New York: McGraw-Hill.

Trotter, J. (1991, October 18). Victory over book censorship in Dixon. *The Sacramento Bee* (final edition), p. A2.

V.I. Circuit et al. v. Anderson Union High School District Board of Trustees, 209 Cal. App. 3d 1438 (1989).

Walsh, D. (1991, April 4). Woodland parents' lawsuit dismissed. *The Sacramento Bee,* pp. B1, B4.

Warchol, R. (1991, April 5). Judge upholds Woodland use of Impressions. *Davis Enterprise,* pp. A1, A9.

Weil, J. (1987). Policy and procedures: Dealing with censorship. *Social Education,* 51(6), 448-449.

Wolfe, G. (1991, Winter). Textbook turbulence. *California School Boards Journal,* 64-66.

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